

Remarks

Claims 16-30 were pending in the application. Claims 16, 18, 20-24, 26, and 27 were rejected. Claims 17, 19, 25, and 28-30 were withdrawn. No claims were merely objected to and no claims were allowed. By the foregoing amendment, no claims are canceled, claims 16, 18, 23, 24, and 26-30 are amended, and claims 31-37 are added. No new matter is presented.

Interview Request

In the interest of examination, Applicant intends to submit a formal request for a telephonic interview with exhibits and comments to be of further assistance in coming to agreement on allowable claims. However, in case Applicant has failed to do so by the time this Amendment is examined, Applicant requests the examiner telephone the undersigned to schedule a telephonic interview.

Election/Restrictions

The Office asserted that “although the invention is modular, the claims presented create an unreasonable burden on the examiner to search for every possible claimed combination of the assembly.” This, however, is incorrect at several levels. First, the Office has presented no evidence or other support for the burden as being unreasonable.

Second, the modularity is a claimed feature. This highlights two specific errors of the Office. First, it appears the Office is attempting to prevent examination of the claim. If the Office treats each different gearbox that the modular system can create separately, no claim to modularity can be examined because, inherently, the claim would address multiple gearboxes. Second, the Office erroneously treats the situation as if it is searching for individual gearboxes. Rather, the Office would be searching for the more narrow situation of particular modular systems producing different gearboxes. This, for example, is different from a hypothetical restriction situation in which the Office restricted between different types or ways of achieving the claimed modularity.

Claim Objections

Claim 18 was objected to. Claim 18 has been amended to depend from claim 16 as

required by the Office. However, Applicants submit that because a system is claimed, it is appropriate, for example, to identify the ability of the system to form one particular group of gearboxes in one claim and identify the further ability to form another group of gearboxes in a claim depending from such claim. This applies even if the two groups are asserted by the Office to be separate species when the Office views the assembled gearbox. Applicants have attempted to further reflect this consideration in several of the added claims.

Claim Rejections-35 U.S.C. 112

Claims 16, 18, 20-24, 26, and 27 were rejected under 35 U.S.C. 112(2). The objected-to language has been deleted.

Claim Rejections-35 U.S.C. 102

Claims 16, 18, 20-24, 26, and 27 were rejected as being anticipated by Siebenhaar (DE2649949). Applicants respectfully traverse the rejection. Regarding claim 16, the Office merely asserted that, as best understood, Siebenhaar comprises “a plurality of different subassemblies, inherently having some form of kinematics, comprising different mounting means for assembling certain subassemblies (figure A)”. Regarding the remaining rejected claims, the Office merely asserted “that the several subassemblies can be assembled in a modular manner such that it anticipates the claims (figure A)”. However, as best understood, Siebenhaar discloses modularity in the form of series assembly of stages within a given kinematic regime, not of different kinematics. If it is cited for anything more, the Office should provide a translation and appropriate explanation. Siebenhaar does not involve different kinematics.

Double Patenting

Claims 16, 18, 20-24, 26, and 27 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-33 of copending application Serial No. 10/519,666. Applicants respectfully traverse the rejection. Upon allowability, an appropriate terminal disclaimer will be considered for the appropriate application.

Accordingly, Applicants submit that claims 16, 18, 20-24, 26, and 27 and 31-37 are in condition for allowance. Reconsideration and further examination are requested. Please charge any fees or deficiency or credit any overpayment to our Deposit Account of record.

Respectfully submitted,

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